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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2018 JUL 16 PM 4:38

E.D. NY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Diane Franklin

Write the full name of each plaintiff.

-against-
John Doe, (Manager)

MTA-NYCT

Brooklyn, NY 11201

Write the full name of each defendant. The names listed above must be identical to those contained in Section I.

CV

(Include case number if one has been assigned)

Do you want a jury trial?

Yes No

EMPLOYMENT DISCRIMINATION COMPLAINT

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. PARTIES

A. Plaintiff Information

Provide the following information for each plaintiff named in the complaint. Attach additional pages if needed.

<u>Diane</u>	<u>Franklin</u>	
First Name	Middle Initial	Last Name
<u>2266 Andrews Ave</u>		
Street Address		
<u>Bronx</u>	<u>New York</u>	<u>10468</u>
County, City	State	Zip Code
<u>212-717-5117</u>	Email Address (if available)	
Telephone Number		

B. Defendant Information

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. (Proper defendants under employment discrimination statutes are usually employers, labor organizations, or employment agencies.) Attach additional pages if needed.

Defendant 1:

<u>John Doe (Manager)</u>		
Name		
<u>Fast 180th street - CD1-N-Track Dept,</u>		
Address where defendant may be served		
<u>Bronx, New York</u>	<u>1045</u>	
County, City	State	Zip Code

Defendant 2:

<u>MTA - NYCT</u>		
Name		
Address where defendant may be served		
County, City	State	Zip Code

Defendant 3:

Name		
Address where defendant may be served		
County, City	State	Zip Code

II. PLACE OF EMPLOYMENT

The address at which I was employed or sought employment by the defendant(s) is:

Name	E 180 th street - Track Construction - 1 - North	
Address	Bronx	New York 1045
County, City	State	Zip Code

III. CAUSE OF ACTION

A. Federal Claims

This employment discrimination lawsuit is brought under (check only the options below that apply in your case):

Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17, for employment discrimination on the basis of race, color, religion, sex, or national origin

The defendant discriminated against me because of my (check only those that apply and explain):

race: _____

color: _____

religion: _____

sex: Female _____

national origin: _____

42 U.S.C. § 1981, for intentional employment discrimination on the basis of race

My race is: _____

Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621 to 634, for employment discrimination on the basis of age (40 or older)

I was born in the year: 1963

Rehabilitation Act of 1973, 29 U.S.C. §§ 701 to 796, for employment discrimination on the basis of a disability by an employer that constitutes a program or activity receiving federal financial assistance

My disability or perceived disability is: _____

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 to 12213, for employment discrimination on the basis of a disability

My disability or perceived disability is: Mental Retardation

Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601 to 2654, for employment discrimination on the basis of leave for qualified medical or family reasons

B. Other Claims

In addition to my federal claims listed above, I assert claims under:

New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297, for employment discrimination on the basis of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status

New York City Human Rights Law, N.Y. City Admin. Code §§ 8-101 to 131, for employment discrimination on the basis of actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status

Other (may include other relevant federal, state, city, or county law): _____

IV. STATEMENT OF CLAIM

A. Adverse Employment Action

The defendant or defendants in this case took the following adverse employment actions against me (check only those that apply):

- did not hire me
- terminated my employment
- did not promote me
- did not accommodate my disability
- provided me with terms and conditions of employment different from those of similar employees
- retaliated against me
- harassed me or created a hostile work environment
- other (specify): _____

B. Facts

State here the facts that support your claim. Attach additional pages if needed. You should explain what actions defendants took (or failed to take) *because of* your protected characteristic, such as your race, disability, age, or religion. Include times and locations, if possible. State whether defendants are continuing to commit these acts against you.

I am spoken to in a condescending manner of a child like tone. It's also sarcasm. I am worked longer by a supervisor. He was reported for denying me a lunch break after almost 7 hours of work; being called a rat-whistleblower; targeted and influencing other supervisors to glare at me on the job which is uncomfortable, unnecessary tension. I was called retarded by a coworker also and perceived as retarded

As additional support for your claim, you may attach any charge of discrimination that you filed with the U.S. Equal Employment Opportunity Commission, the New York State Division of Human Rights, the New York City Commission on Human Rights, or any other government agency.

V. ADMINISTRATIVE PROCEDURES

For most claims under the federal employment discrimination statutes, before filing a lawsuit, you must first file a charge with the U.S. Equal Employment Opportunity Commission (EEOC) and receive a Notice of Right to Sue.

Did you file a charge of discrimination against the defendant(s) with the EEOC or any other government agency?

Yes (Please attach a copy of the charge to this complaint.)

When did you file your charge? I don't remember; 7/3/2017 maybe

No

Have you received a Notice of Right to Sue from the EEOC?

Yes (Please attach a copy of the Notice of Right to Sue.)

What is the date on the Notice? April 16, 2018

When did you receive the Notice? April 17, 2018

No

VI. RELIEF

The relief I want the court to order is (check only those that apply):

- direct the defendant to hire me
- direct the defendant to re-employ me
- direct the defendant to promote me
- direct the defendant to reasonably accommodate my religion
- direct the defendant to reasonably accommodate my disability
- direct the defendant to (specify) (if you believe you are entitled to money damages, explain that here)

I was not assigned overtime at my titled position of specialty rates. The men with my titled position where assigned the overtime at the specialty rate which occurred on weekend job locations.

VII. PLAINTIFF'S CERTIFICATION

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

July 16, 2018

Dated

Diane

First Name

Middle Initial

Last Name

2266 Andrews Ave

Street Address

Bronx

New York

10468

County, City

State

Zip Code

347-717-2117

Telephone Number

Email Address (if available)

Diane Franklin

Plaintiff's Signature

I have read the attached Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

Yes No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form.

U.S. EQUAL OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Diane Franklin
2266 Andrews Ave., Apt.# 1B
Bronx, NY 10468

From: New York District Office
33 Whitehall Street
5th Floor
New York, NY 10004



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

16G-2017-04071

Holly M. Shabazz,
State & Local Program Manager

(212) 336-3643

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge
- The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Enclosures(s)

Kevin J. Berry,
District Director

April 16, 2018

(Date Mailed)

cc:

MTA NYC, MANHATTAN & BRONX SURFACE
TRANSIT OPERATING AUTHORITY
Attn: General Counsel
2 Broadway
New York, NY 10004